

[REDACTED]

[REDACTED]

NOV 21 1989

EIN: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information provided indicates that you were incorporated under the laws of [REDACTED] on [REDACTED]. According to your Articles of Incorporation, you were organized to acquire, construct, own, hold and operate social and recreational facilities exclusively for the pleasure, recreation and other nonprofitable purposes of your members, including without limitation facilities for tennis, racquetball, swimming and horseback riding.

You have represented that your facilities are currently owned by a real estate developer. You presently lease the facilities for [REDACTED] dollar per year. You state that the facilities will be sold to the Club in the future. At that time ownership of the facilities will be passed to the Club and the facilities will be used exclusively for the recreation and pleasure of members.

Your Bylaws indicate that the affairs of the Club are controlled by the developer. Control over the Club's affairs manifest itself in the fact that the developer has the power to appoint the majority of members on the Board of Directors. The developer also determines the amount charged for initiation fees, along with collecting and retaining the fees until the facilities are completely built and all costs repaid by the Club.

Section 501(c)(7) of the Code provides for the exemption from federal income tax of "clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 1.501(c)(7)-1(a) of the Income Tax Regulations provides that the exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs

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which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder.

Revenue Ruling 65-219, 1965-2 C.B. 168, provides that a club which is operated under an agreement with its resident agent whereby he controls the size of the club membership, the amounts of initiation fees and annual club dues, and retains all initiation fees and 90 percent of dues and transfer fees in return for the exclusive use of the swimming pool which he owns and operates is not exempt from federal income tax under section 501(c)(7) of the Code. The agreement permitted the club to use the property as a licensee for a period of 20 years. In addition to undertaking the expense of constructing the pool, the licensor agreed to pay for the support and maintenance of the pool, and to furnish personnel necessary for its efficient operation. The Rev. Rul. concluded that the arrangement in this case went beyond the normal management contract whereby a club is saved the burden of administrative details by paying a reasonable rental to an outside operator in the form of a share of the receipts. Accordingly, it was held that the club is operated as a commercial venture for the financial benefit of the licensor and was not exempt under section 501(c)(7) of the Code.

In your case, the developer will control the operations of the Club prior to the transfer of facilities to you through its power to appoint the majority of the members of your Board of Directors, along with collecting and retaining initiation fees. As such, the Club will be operated for that period of time as an integral part of a commercial venture of the developer. Therefore, you are operated for the financial benefit of the developer and are not operated exclusively for the pleasure and recreation of members.

Accordingly, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(7) of the Code and are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when file your protest statement. If you are to be represented by someone who is not one of your officers that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices.

[REDACTED]

and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, You will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These Symbols do not refer to your case but rather to its location.

Sincerely yours, [REDACTED]

(Signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 2

✓cc: [REDACTED] 90

cc: [REDACTED]

[REDACTED]

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